

Mental Health Series

Children Having Children and Statutory Rape Consequences

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INTRODUCTION

Teen pregnancy is often thought of as sexual activity resulting in pregnancy between two youth below the age of consent in the community they reside. However, teen pregnancies are also the results of an adult having sex with an adolescent or person under the age of consent.^{1,2} Although there are situations where the adolescent has consented to this activity, the reality is that force or coercion has been used.³ This generally results in psychological problems for the child or youth who is not of the age to consent due to the inability to reject the wishes or demands of the adult.^{4,5} This is considered child sexual abuse, as defined by such organizations as the American Academy of Child and Adolescent Psychiatry (AACAP). The AACAP states "Child sexual abuse can take place within the family, by a parent, step-parent, sibling or other relative; or outside the home, for example, by a friend, neighbor, child care person, teacher, or stranger. When sexual abuse has occurred, a child can develop a variety of distressing feelings, thoughts and behaviors."⁶

CHANGING LAWS WITHIN THE UNITED STATES

"Statutory rape laws are based on the premise that until a person reaches a certain age, that individual is legally incapable of consenting to sexual intercourse."^{7,8} There is no federal law that defines statutory rape. Similarly, there is no consensus on what legal action is to be taken against an individual who decides to break the statutory rape laws of a local community. In the state of Tennessee, "statutory rape is sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least thirteen (13) but less than

eighteen (18) years of age and the defendant is at least four (4) years older than the victim."⁷ However, statutory rape cases have one thing in common: When sexual activities occur between a child / youth and an adult, the situation becomes one of sexual abuse. This often results in negative psychological and emotional reactions. The sexually abused child / youth exhibits a number of symptoms that are recognizable, such as:

- unusual interest in or avoidance of all things of a sexual nature
- sleep problems or nightmares
- depression or withdrawal from friends or family
- seductiveness
- statements that their bodies are dirty or damaged, or fear that there is something wrong with them in the genital area
- refusal to go to school
- delinquency/conduct problems
- secretiveness
- aspects of sexual molestation in drawings, games, fantasies
- unusual aggressiveness, or
- suicidal behavior⁶

Also, some studies found that adults who are involved in these activities have psychological problems.

The behavior of adult men who father children with minors is often looked at as "deviant" and representative of problem behavior and psychosocial deficits that may reduce their earning potential and personal stability, making such men less desirable partners to adult women.²

Data collected within the last 10 years confirm that children / youth who had babies with adults experience a higher rate of violence.^{8,1} Studies also noted that these adults were not providing

financial and emotional support to their children and parents.⁴ Due to this growing problem, legislators were urged to pass more stringent rules to prevent statutory rape.

In 1996, various federal legislation to reform welfare in the United States was passed with the goal of decreasing the high rate of out-of-wedlock births. Due to reforms in federal public assistance, the guidelines for eligibility of assistance to mothers and infants (who lived in households with income below the national poverty level) changed. The federal legislation offered bonus plans to states, as well as mandated programs aimed at lowering the pregnancy rates of children and adolescents who were in an at risk population.⁹ Further, efforts were made to ensure that the adults of such relationships become more aware of the serious consequences of having sexual relationships with children and youth.

Many states attempted to consider more stringent and consistent punishment, or consequences, for the adult. Only a handful of states, such as California, have gone a step further. In such states as California, the enforcement of the laws on the books has been followed-up with stringent monitoring of the behavior and motivation that the birth parents bring to the parenting experience. More detailed information is needed on the identity of adult parents, as well as a need to know what motivated adults to have sexual involvement with a minor.¹⁰

In 2004, the State of Tennessee included statutory rape under the category of sexual abuse. This Public Act, Chapter 921, became effective August 1, 2004. This law is directed toward those predators and individuals who 'prey' upon children and youth. Chapter 921 addresses those children and youth who

are literally raped, coerced, forced, and abused by adults demanding sexual activities while attempting to convince the public that the relationship is a consenting one for both parties.¹²

COURT CASE – STATUTORY RAPE OR LOVE

Mary Kay (Katherine) Schmitz Letourneau, teacher, married and mother of 4, was arrested for statutory rape on February 26, 1997. Four months later, she gave birth to a girl who was also the daughter of the young man that she had been arrested for committing statutory rape. On August 7, 1997, she pled guilty to two counts of 2nd degree statutory rape. She was given a sentence of 89 months and court ordered to enroll in a sexual deviancy treatment program. Mary Kay Letourneau was 27 when she became the teacher of a seven (7) year old named Vili Fualaau. When he entered seventh grade, at age 13, she became his teacher again. This placed her in a role of being a caretaker – someone who had the responsibility of taking care of him in a custodial manner, such as a parent, relative, teacher, etc. However, the adolescent persistently stated that they had a relationship and that he gave her consent, even though he was not legally of age to give consent to sexual behavior. Mary Kay Letourneau's defense team convinced the courts that she would adhere to the sexual deviancy treatment program and obtained probation with release to return to her 4 children and husband. On February 3, 1998, Mary Kay Letourneau was rearrested after police discovered the same adolescent with her, engaged in sexual activities in a public place, which violated the conditions of her probation. During this hearing, the court did not believe that Mary Kay Letourneau would adhere to a court ordered treatment for behavior that was deemed sexual abuse by the rules of the community. The courts decided to view Mrs. Letourneau's behavior as a criminal act. Mrs. Letourneau was returned to jail and she later delivered a second daughter

in October 1998. In August 2004, Mrs. Letourneau was released from prison. As of September 2004, Vili Fualaau was 21 years old and no longer considered an adolescent father of two children. He continues to profess that there was a relationship and that he was competent to give his consent (at the age of 13 years) to sexual activities with an adult who was 20 years older than him.¹¹

CONCLUSION

"In 1899 the age of sexual consent in some American jurisdictions was 9 years. It has ranged from 7 to 21 years and currently in Tennessee our statutory rape statute defines it as within four years of the minor. The age selected seems to be an arbitrary matter, the product of legislative compromises."¹³ More relevant is that when children and/or youth find themselves involved in a sexual encounter with an adult even with consent, there can be negative psychological and emotional reactions. "After a brief flurry of interest in the mid-1990s, primarily centered on welfare reform and efforts to force older fathers to contribute to the costs of raising children, adult-teen childbearing has largely disappeared from the public agenda."¹⁰ Further studies and legislation may be needed to address this continuing problem.

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